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11 *Attorneys for Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New*
12 *York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a*
13 *JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,*
14 *Mortgage Pass-Through Certificates, Series 2004-9*

15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 THE BANK OF NEW YORK MELLON
18 TRUST COMPANY, N.A. F/K/A THE
19 BANK OF NEW YORK TRUST
20 COMPANY, N.A. AS SUCCESSOR-IN-
21 INTEREST TO JPMORGAN CHASE BANK
22 N.A. F/K/A JPMORGAN CHASE BANK,
23 AS TRUSTEE FOR MASTR ADJUSTABLE
24 RATE MORTGAGES TRUST 2004-9,
25 MORTGAGE PASS-THROUGH
26 CERTIFICATES, SERIES 2004-9,

27 Plaintiff,

28 vs.

FIDELITY NATIONAL TITLE GROUP,
INC.; CHICAGO TITLE INSURANCE
COMPANY,

Defendants.

Case No.: 2:20-cv-01394-JCM-BNW

**STIPULATION AND ORDER TO
EXTEND DISCOVERY**

(Second Request)

Plaintiff, The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New
York Trust Company, N.A. as successor-in-interest to JPMorgan Chase Bank N.A. f/k/a
JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-9,
Mortgage Pass-Through Certificates, Series 2004-9 (“BONY”) and Defendants, Chicago Title
Insurance Company (“Chicago Title”) and Fidelity National Title Group, Inc. (“Fidelity”)

(collectively, the “Parties”), by and through their counsel of record, hereby submit their Stipulation to Extend Discovery Deadlines by sixty (60) days in accordance with Local Rule 26-3 and Local Rule IA 6-1. The Parties are requesting an extension to the discovery deadlines as the Parties recently exchanged responses to written discovery requests and the Parties are now meeting-and-conferring regarding the adequacy of the responses. Additionally, the Parties intend to notice depositions of the Parties’ Fed. R. Civ. P. 30(b)(6) witnesses for mid to late November. The Parties’ experts will need to review the transcripts prior to authoring initial expert reports.

This is the Parties second request for an extension of time to the current discovery plan and counsel submits that the request is brought in good faith, supported by good cause in compliance with LR 26-3, and is not intended to cause delay.

A. Statement Specifying the Discovery Completed:

The Parties conducted the Fed. R. Civ. P. 26(f) conference on September 23, 2020. On October 9, 2020, the Court entered its initial Discovery Plan and Scheduling Order [ECF No. 22]. On July 23, 2021, the Court entered an Order staying the case pending the outcome of *Wells Fargo Bank, N.A. v. Fidelity Nat’l Title Ins. Co.*, Ninth Cir. Case No. 19-17332, Case No. 3:19-cv-00241-MMD-WGC (*Wells Fargo II*) [ECF No. 63]. A Minute Order lifting the stay was entered on January 11, 2022 [ECF No. 72]. On April 29, 2022, a Scheduling Order [ECF No. 74] was entered. Subsequently, a Stipulation and Order to Extend Discovery [ECF No. 77] was entered on July 15, 2022, with the following deadlines:

- Initial disclosures: already occurred.
- Amending pleadings and adding parties: July 5, 2022;
- Initial expert disclosures: November 4, 2022;
- Rebuttal expert disclosures: December 5, 2022;
- Discovery cutoff: January 3, 2023;
- Dispositive motions: February 2, 2022; and
- Joint proposed pretrial order: March 2, 2023, or 30 days after resolution of dispositive motions.

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1 To date, the Parties have completed the following discovery:

- 2 • Chicago Title and Fidelity's Initial Disclosure of Witnesses and Documents,
3 November 6, 2020;
- 4 • BONY's Initial Disclosure of Witnesses and Documents, November 6, 2020;
- 5 • Chicago Title's First Set of Interrogatories to BONY, September 30, 2020;
- 6 • Chicago Title's First Set of Requests for Admission to BONY, September 30,
7 2020;
- 8 • Chicago Title's First Set of Requests for Production to BONY, September 30,
9 2020;
- 10 • BONY's First Set of Interrogatories to Chicago Title, November 10, 2020;
- 11 • BONY's First Set of Requests for Admission to Chicago Title, November 10,
12 2020;
- 13 • BONY's First Set of Requests for Production to Chicago Title, November 10,
14 2020;
- 15 • BONY's First Set of Interrogatories to Fidelity, November 10, 2020;
- 16 • BONY's First Set of Requests for Admission to Fidelity, November 10, 2020;
- 17 • BONY's First Set of Requests for Production to Fidelity, November 10, 2020;
- 18 • BONY's Responses to Chicago Title's First Set of Requests for Admission,
19 February 5, 2021;
- 20 • Chicago Title's Notice of Intent to Serve Subpoena Duces Tecum to the following
21 Entitles, February 16, 2021:
 - 22 ○ Western Progressive – Nevada, Inc.;
 - 23 ○ Corelogic, Inc.;
 - 24 ○ Ocwen Loan Servicing, LLC;
 - 25 ○ Bank of America, N.A.;
 - 26 ○ Nevada New Builds, LLC;
 - 27 ○ La Posada Condominium Property Owner's Association;
 - 28 ○ Kevin E. Davidson;

- Karen M. Davidson;
- ReconTrust Company, N.A.;
- Nevada Association Services, Inc.;
- Miles Bauer Bergstron & Winters, LLP; and
- Mortgage Electronic Registrations Systems, Inc.
- Chicago Title's Subpoena Duces Tecum to Mortgage Electronic Registrations Systems, Inc., served February 19, 2021;
- Chicago Title's Subpoena Duces Tecum to Ocwen Loan Servicing, LLC, served February 19, 2021;
- Chicago Title's Subpoena Duces Tecum to Federal National Mortgage Association, served July 2, 2021;
- BONY's Interrogatories to Chicago Title (*re-served*), July 5, 2022;
- BONY's Requests for Admission to Chicago Title (*re-served*), July 5, 2022;
- BONY's Requests for Production to Chicago Title (*re-served*), July 5, 2022; and
- BONY's Requests for Admission concerning genuineness of documents to Chicago Title (*re-served*), July 5, 2022.
- BONY's Responses to Chicago Title's First Set of Interrogatories, October 5, 2022.
- BONY's Responses to Chicago Title's First Set of Requests for Production, October 5, 2022.
- BONY's First Supplemental Disclosure of Witnesses and Documents, October 5, 2022.
- Chicago Title's Responses to BONY's Interrogatories, October 5, 2022.
- Chicago Title's Responses to BONY's Requests for Admission, October 5, 2022.
- Chicago Title's Responses to BONY's Requests for Admission concerning genuineness of documents, October 5, 2022.
- Chicago Title's Responses to BONY's Requests for Production, October 5, 2022.

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B. Specific Description of the Discovery that Remains to be Completed:

The Parties need to conduct the following discovery:

- The Parties' Initial Expert Disclosure;
- The Parties' Rebuttal Expert Disclosure;
- Deposition of Fed. R. Civ. P. 30(b)(6) Witness for Chicago Title;
- Deposition of Fed. R. Civ. P. 30(b)(6) Witness for BONY;
- Deposition of various fact witnesses and experts; and
- Such other discovery that may be deemed necessary or appropriate.

C. The Reasons why the Deadline was not Satisfied or the Remaining Discovery was not Completed Within the Time Limits set by the Discovery Plan:

This matter was previously stayed pending the Ninth Circuit's resolution of *Wells Fargo II*. Prior to the stay, little discovery was had between the Parties. Now that the Parties have responded to each other's substantive written discovery requests, the Parties are meeting-and-conferring regarding the adequacy of the responses given. The Parties need additional time to resolve the pending discovery dispute prior to the disclosure of expert reports. Additionally, the Parties have been working to schedule depositions, and are looking at dates in mid to late November to accommodate the out-of-state witness(es) and counsel's schedules. The Parties' experts will need to review the deposition transcripts prior to authoring initial expert reports. The current initial expert deadline of November 4, 2022 does not provide sufficient time for the Parties to resolve their discovery dispute and to conduct depositions prior to disclosure of expert report. Accordingly, the Parties request a sixty (60) day extension to the discovery deadlines so that the Parties have sufficient opportunity to resolve the pending discovery dispute, conduct depositions, and for the Parties' experts to have sufficient time to review the written discovery responses, documentation, transcripts, and issue opinions prior to authoring initial expert reports.

In accordance with Local Rule 26-3, good cause exists for an extension to the discovery deadlines as the Parties' experts are unable to prepare an expert report prior to the November 4, 2022.

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D. A proposed schedule for completing all remaining discovery.

The Parties request that the current deadlines in the Stipulation and Order to Extend Discovery [ECF No. 77] be extended as follows:

1. Last Day to Disclose Initial Expert Report: currently November 4, 2022, **desired January 5, 2023;**
2. Last Day to Disclose Rebuttal Experts: currently December 5, 2022, **desired February 6, 2023;**
3. Last Day to Complete Discovery: currently January 3, 2023; **desired March 6, 2023;**
4. Last Day to File Dispositive Motions: currently February 2, 2022, **desired April 5, 2023;**
5. Last Day to File Joint Pre-Trial Order: currently March 2, 2023, **desired May 5, 2023.**

In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after a decision of the dispositive motions.

The disclosures required by FRCP 26(a)(3), and any objections thereto, shall be included in the pretrial order.

IT IS SO STIPULATED.

DATED this 14th day of October, 2022.

DATED this 14th day of October, 2022.

WRIGHT, FINLAY & ZAK, LLP

SINCLAIR BRAUN LLP

/s/ Lindsay D. Dragon

/s/ Kevin S. Sinclair

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ORDER

IT IS SO ORDERED

DATED: 2:56 pm, October 17, 2022



**BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE**